

2. The figure 2 of Sanger is a conical shape and absent the extrapolation of the word hemisphere from applicant's patent, nobody would use the word "hemisphere" to describe the shape of the reflector of Sanger. They might use the word "conical", but certainly not the word hemisphere. As to the applicant's drawing, the word hemisphere is used in the claims and the claims are what define the invention. Since it is called a hemisphere, it is a hemisphere. Granted the drawings indicate an exaggerated hemisphere shape, but one would not have to make up the term "hemisphere" to describe the shape of the present invention's reflector, since the claims tell those skilled in the art what shape it is. It is not completely without relationship to the drawn object, as it would be in calling the Sanger reflector a hemisphere.

3. Sanger clearly states that his reflector can be seen from the rear of the bicycle. Page 2, lines 4-8. That is all Sanger states. It does not state that it can be seen from the side or any other direction which would be considered omnidirectional. It would better be described as uni-directional, if such term existed. The word "side" and "omnidirectional" are not found in Sanger, and cannot be inserted without some reason or some proper reference or purpose other than to deny applicant their application.

4. Page 2 of the response did not state that Sanger's reflector is capable "of being seen from 'omnidirections' or multiple directions". That language is used on page 2 Paragraph 2 to describe the current invention. It really wouldn't matter if the response would have made that mistake anyhow, since Sanger doesn't say "omnidirections" or multiple directions anywhere in its entire patent.

Case law is overwhelmingly in support of Applicant's response. First, it is fundamental that claims are to be construed in the light of the specification and both are to be read with a view to

ascertain the invention. *Transitron Electronic Corp. v. Hughes Aircraft Co.*, 487 F. Supp. 855, 205 USPQ 799 (1980, DC Mass.). The present invention state exactly what it is and what it does, and Sanger does not state the same reflector in shape or function. Sanger has a conical shaped reflector (side profile) and it illuminates to the rear view of the bicycle only. That's what it says - no more and no less.

As to the particular vernacular of Claim 1 of the invention, the phraseology employed in the claims is the "guiding star" in the construction of the patent. *Super Products Corp. v. D P Way Corp.*, 546 F.2d 748, 756, 192 USPQ 417, 423-424 (1976, CA7 Wis.). Sanger does not use the word hemisphere and it does not reflect anywhere except the rear of the bicycle. Sanger also does not show a hemisphere in any drawing, but instead demonstrates at best a cone shaped side profile.

Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching, suggestion or incentive supporting the combination. *In Re Geiger*, 815 F.2d 686, 2 U.S.P.Q. 2d 1276 (C.A.F.C. 1987); *In Re Fine*, 837 F.2d 1071, 5 U.S.P.Q. 2d 1596 (C.A.F.C. 1988). Sanger does not teach, suggest or give one an incentive to extrapolate the language of Sanger into the present invention.


Essential elements cannot be read into the description, nor can information which it does not give. *Baldwin-Southwark Corp. v Coe*, 76 App DC 412 (1942); *Leow Filter Co. v German-American Filter Co.* 164 F 855 (1908, CA Ohio). This is the primary case language that prohibits the actions of the Examiner in his rejections.

The prior description must disclose clearly, truly and full what the subsequent patentee invented and accomplished. *Seabury v Am Ende*, 152 US 561, 14 S Ct 683 (1894). Sanger does not even come close, since Sanger is not seen from an omnidirection. It can only be seen from the rear, because that's what Sanger says - nothing more and nothing less.

CONCLUSION


Applicant's remarks in the prior response should have been persuasive and are therefore clarified in this response. The Examiner's final office action is based upon improper reference and extrapolation of words into Sanger that clearly exceed the scope of Sanger and could only be derived from a reading of the current invention's claims and specifications. The rejections do not meet the requirements of MPEP 2142 and should not be allowed to bar applicant's allowance to issue. Reconsideration of the final rejection is rightfully requested and consideration given to withdraw the outstanding rejections and pass the application to issue.

Respectfully submitted;


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